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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,296	04/03/2002	Thomas William Bailey	912.40950X00	5736

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EXAMINER

MUSSER, BARBARA J

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/009,296

Applicant(s)

BAILEY ET AL.

Examiner

Barbara J. Musser

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 12-16 and 18-24 is/are rejected.
- 7) ☒ Claim(s) 4, 6-11 and 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 12, it is unclear what the articles are intended to be inclined relative to. For the purposes of examination, they are assumed to be inclined relative to the perpendicular to the tangent at point of contact of the opening and the conveyor exterior.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5, 13-16, 19, 21, 23, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogata et al.(U.S. Patent 5,442,894).

Ogata et al. discloses a method of wrapping cigarettes wherein groups of cigarettes surrounded by a wrapper are placed in a rotary conveyor(4), a heating means moveable with the conveyor heat seals overlapped regions of the wrapper(4g1), and the

wrapped package is discharged at a different location on the conveyor.(Figures 1 and 10; Col. 11, ll. 54- Col. 12, ll. 15)

Regarding claim 2, the rotary conveyor is a pocketed drum.(Figure 1)

Regarding claim 3, the heating means is a series of heating means(4g1), with at least one heating means being associated with each pocket.(Col. 11, ll. 65-68)

Regarding claim 5, the heating means move in and out of operative positions.(Col. 12, ll. 1-15; Figures 10 and 11)

Regarding claim 13, the heat sealing means are a series of end heaters(4g1) each of which is movable in and out of an operative position with regard to the wrapper.(Figures 10 ad 11)

Regarding claim 14, the movable element completes a folding action on the wrapper.(Figure 10; Col. 11, ll. 53-68)

Regarding claim 15, the movable element includes a pivoted lever which operates at certain positions, e.g. operates on rotation of the conveyor.(4e2)(Col. 11, ll. 48-60)

Regarding claim 16, the movable element moves in a direction transverse to the axis of the rotary conveyor.(Figure 10)

Regarding claim 19, the wrapper and cigarettes are delivered in a direction transverse to the axis of the conveyor.(Figure 1)

Regarding claim 24, an end flap is folded before forming the seal.(Figure 10)

5. Claims 1-3, 5, 18, 21, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore(U.S. Patent 2,603,925).

Moore discloses a method of wrapping cigarettes wherein a wrapper is placed in a rotary conveyor(15), a heating means moveable with the conveyor heat seals overlapped regions of the wrapper(67), and the wrapped package is discharged at a different location on the conveyor.(Figures 1 and 13; Col. 6, ll. 63- Col. 7, ll. 10)

Regarding claim 2, the rotary conveyor is a pocketed drum.(Figure 1)

Regarding claim 3, the heating means is a series of heating means(67), with at least one heating means being associated with each pocket.(Figure 8)

Regarding claim 5, the heating means move in and out of operative positions.(Col. 6, ll. 63-74; Figure 8)

Regarding claim 18, the cigarettes are delivered in a direction parallel to the axis of the conveyor.(Figures 1 and 1a)

Regarding claim 24, a flap is folded before forming the seal.(Figure 1)

6. Claims 1, 2, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Focke(U.S. Patent 4,179,864)

Focke discloses an apparatus for wrapping groups of cigarettes by placing the cigarettes and a wrapper in a location in a rotating drum, the wrapper having at least one overlapping region, and heat sealing means carried with the drum to heat the wrapper before the cigarettes and wrapper are discharged from the drum at a different location.(Figures 1 and 4; Col. 1, ll. 49-61)

Regarding claim 2, the rotary conveyor is a pocketed drum.(Figures 1 and 2)

Regarding claim 22, the conveyor forms side seals on opposite sides of the drum simultaneously.(Figure 4)

7. Claims 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Geer et al.(U.S. Patent 3,136,104).

Geer et al. discloses a method of wrapping articles by conveying a wrapper and the article on a rotary path and bonding an overlapped seam of the wrapper around the article.(Figures 1 and 1B; Col. 5, ll. 38-50)

Regarding claim 23, since the heater is applied to one surface of the article, it would heat and bond at least that one end.(Figure 1) It is noted that an end has not been defined as more than one side of a product.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Blackall et al.(U.S. Patent 4,330,976).

Moore discloses as stated in the rejection above, but does not disclose transferring the wrapped articles to another rotary conveyor in a direction parallel to the axis of the first rotary conveyor and therefore parallel to the cigarette delivery means but rather transfers it to a trough in a direction parallel to the first rotary conveyor.(Col. 7, ll. 65-70) Blackall et al. discloses an alternative method of conveying articles is by rotary conveyors placed so that movement from one to the other is in a direction parallel to the axis of the conveyors(Figure 3) It would have been obvious to one of ordinary skill in

the art at the time the invention was made to transfer the wrapped articles to another rotary conveyor in a direction parallel to the axis of the first rotary conveyor since this would take less space than doing further processing in a straight line.

Allowable Subject Matter

10. Claims 4, 6-11, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claim 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter: regarding claim 4, the prior art of record does not teach or fairly suggest two series of heaters disposed on opposite sides of the article. While Moore discloses two series of heaters, they are for adjacent faces of the article and it is unclear if the second set of heating means in Moore are carried with the conveyor. Regarding claims 6-11, the prior art of record does not teach or fairly suggest the series of heating means being mounted on a carrier which is displaceable relative to the article locations. While Ogata et al. and Moore disclose a series of heating means, there is no suggestion in the references that the heating means are mounted on a separate carrier which is displaceable relative to the article locations but rather they appear to be mounted on the conveyor itself. Regarding claim 12, the prior art of record does not teach or fairly

suggest using heating means in combination with the articles being inclined relative to the radial direction. Regarding claim 17, the prior art of record does not teach or fairly suggest the series of end seal heaters being movable in a plane parallel to the axis of the conveyor.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Barbara J. Musser** whose telephone number is **(571) 272-1222**. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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